[The following declaration was filed in *United States v. Alabama Power Co.*, 372 F.Supp.2d 1283 (N.D. Ala. 2005).]

DECLARATION OF RONALD W. GORE

1. My name is Ronald W. Gore. I am over 21 years of age, I am competent to testify, and I have personal knowledge of the facts set forth in this affidavit. I have reviewed the complaint and other pleadings filed in the case of United States of America v. Alabama Power Company. I have also reviewed a declaration signed by Mr. Richard Grusnick relating to this case and to certain provisions of the Alabama SIP, and I find it consistent with my own views.

2. I am the current Chief of the Air Division of the Alabama Department of Environmental Management ("ADEM"). I have served in that position from 1996 to the present time. From 1976 to 1996, I served as the Chief of the Air Division's Engineering Services Branch. As Air Division Chief, I am responsible for managing and overseeing Alabama's air quality program. This position is the highest-ranking state official dealing exclusively with air quality. I report directly to the ADEM Director, and I am responsible for developing air quality regulations and policies, interpreting ADEM's air regulations, and permitting and enforcement.

3. ADEM's air quality regulations include those that implement the prevention of Significant Deterioration ("PSD") program in Alabama. ADEM's PSD regulations have been in effect since January 27, 1981, and were approved by the United States Environmental Protection Agency ("EPA") on December 10, 1981. Since that time, ADEM has operated the PSD program in Alabama in lieu of the federal PSD program, as provided under the Clean Air Act. The interpretations of ADEM's PSD preconstruction permitting regulations, discussed below, were the interpretations of the agency at the time of the projects identified in the complaint.

4. Under Alabama's PSD program, major sources of air emissions in attainment areas must obtain a PSD permit prior to the construction of a major modification.

5. For purposes of this PSD permitting requirement, ADEM interprets "major modification" to include only those projects or activities that increase the maximum capacity of a unit or facility to emit more pollution on an hourly basis. However, not every project that increases the unit's or facility's hourly emissions rate will trigger PSD. For example, the source may still be able to net out of PSD applicability. This interpretation is based on the exclusions contained in the Alabama regulations and on the Clean Air Act. Under ADEM's interpretation, repairing or replacing like-kind parts or components at an existing source is not a major modification, nor is a project that is intended to restore the unit or facility to its normal or expected level of operations.

6. The Alabama PSD regulations contain an exclusion for routine maintenance, repair, and replacement activities. This exclusion was intended to make clear that repair, replacement and maintenance activities that are ordinary practice for facilities in the relevant industrial category, such as the replacement of worn-out equipment with like-kind or comparable components, are not considered modifications.

7. The Alabama PSD regulations contain exclusions for increases in hours of operation and for increases in production rate. These exclusions were intended to make clear that a project or activity that is followed by an increase in the availability or utilization of a facility is not considered a modification on that basis, rather than on the basis of an increase in the maximum hourly rate of emissions.

Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the forgoing is true and correct.

[/s/ Ronald W. Gore 10/8/04]
Ronald W. Gore
Chief, Air Division
Alabama Department of
Environmental Management